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June 15, 2011

**EX PARTE
VIA HAND DELIVERY**

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, DC 20534

Ms. Lynne Hewitt Engledow
Pricing Policy Division, Wireline Competition Bureau
Federal Communications Commission
445 12th Street S.W.
Washington, DC 20534

Re: Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; Connect America Fund, WC Docket No. 10-90; High-Cost Universal Service Support, WC Docket No. 05-337; and A National Broadband Plan for our Future, GN Docket No. 09-51

Dear Ms. Dortch and Ms. Hewitt Engledow:

Yesterday, Chris Miller and the undersigned of Verizon met with Rebekah Goodheart, Brad Gillen, Al Lewis, Marcus Maher, Rohit Dixit, Kevin King, Raffi Melanson, and Lynne Engledow of the Wireline Competition Bureau. The purpose of the meeting was to discuss current VoIP traffic patterns and the growth of VoIP as a percentage of overall traffic that connects with the PSTN. We explained how Verizon identifies VoIP traffic for intercarrier compensation billing purposes—using factors, public information, billing codes, and other carrier-submitted data—and provided copies of the attached confidential Verizon VoIP traffic information.

REDACTED – FOR PUBLIC INSPECTION

At the request of Commission staff and submitted under protection of the September 16, 2010 Protective Order¹ in these proceedings, attached at Exhibit A is certain confidential and proprietary information related to Verizon's VoIP traffic.

Verizon seeks confidential treatment of the attached information under the Protective Order. Notwithstanding the Protective Order, the above information is entitled to confidential, non-public treatment under the Freedom of Information Act (FOIA) and related provisions of the Commission's rules. *See* 47 C.F.R. §§ 0.457 and 0.459; 5 U.S.C. § 552, *et seq.* The attached information contains sensitive commercial information related to VoIP traffic patterns by Verizon customers. The Commission has consistently held that such data satisfy the requirements of FOIA Exemption 4 (trade secrets or commercial/financial information). *See, e.g., Cox Communications, Inc.; Request for Confidentiality for Information Submitted on Forms 325 for the Year 2003*, 19 FCC Rcd 12,160 ¶ 6 (2004) ("Cox"); *see also Comcast Cable Communications, Inc.; Request for Confidentiality for Information Submitted on Forms 325 for the Year 2003*, 19 FCC Rcd 12,165 ¶ 6 (2004); *Time Warner Cable; Request for Confidentiality for Information Submitted on Forms 325 for the Year 2003*, 19 FCC Rcd 12,170 ¶ 5 (2004); and *Altrio Communications, Inc.; Request for Confidentiality for Information Submitted on Forms 325 for the Year 2003*, 19 FCC Rcd 12,176 ¶¶ 4-5 (2004). In addition, Verizon treats this data as confidential. As in the *Cox* case, Verizon does not customarily release this information to the public. *Cox*, ¶ 5. Verizon also limits the internal circulation of this information to only those with a "need-to-know." *Id.*

Moreover, information in the possession of a public entity is considered to be "confidential" if disclosure is likely to substantially harm the competitive position of the person from whom the information was obtained. *See National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974); *see also Critical Mass Energy Project v. Nuclear Regulatory Commission*, 975 F.2d 871, 873 (D.C. Cir. 1992).

Verizon is subject to actual and potential competition with respect to all wireline and wireless products and services. The above information provides a roadmap detailing the popularity of IP services and growth of IP traffic handled by Verizon. Competitors reviewing the data could gain access to Verizon's confidential market strategies.

If competitors are able to gain an unfair advantage by obtaining such a picture of Verizon's business strategies, they may be able to anticipate Verizon's strategic initiatives and protect themselves against competition from Verizon—or structure their own competitive initiatives—in a targeted way, without engaging in the business-wide price reductions and service improvements

¹ *Developing a Unified Inter-carrier Compensation Regime*, Protective Order, 25 FCC Rcd 13160 (2010) ("Protective Order").

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they may otherwise be forced to make. As a result, the attached information is sensitive and commercially valuable, and its disclosure would substantially harm Verizon's competitive position.

In support of its request for confidential treatment, Verizon submits the following more specific information pursuant to § 0.459:

Identification of the specific information for which confidential treatment is sought. Verizon seeks confidential treatment for the attached information, which contains proprietary data related to Verizon's VoIP traffic.

Identification of the Commission proceeding in which the information was submitted or description of the circumstances giving rise to the submission. The appropriate Commission dockets are listed in the subject line of this letter. This information is being submitted in response to a request from Commission staff.

Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged. The attached proprietary information includes confidential VoIP traffic information. The information is considered highly confidential, both internal to Verizon and to external sources. Verizon treats this data as a confidential trade secret and would not agree to submit the data in response to the Commission staff's request without assurances that the information will be kept confidential. It would be highly inappropriate for the data to be disclosed to the public or third parties absent the protection of a non-disclosure agreement.

Identification of any measures taken by the submitting party to prevent unauthorized disclosure. The attached proprietary information is made available only to Verizon representatives on a "need-to-know" basis.

Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third-parties. The attached proprietary information is not publicly available.

Justification of the period during which the submitting party asserts that material should not be available for public disclosure. Verizon requests that the attached proprietary information be treated as confidential indefinitely. As discussed, even within Verizon this information is only made available on a "need-to-know" basis. Because of the sensitive nature of the data it would never be appropriate for this information to be placed on the public record.

Based on the foregoing, Verizon requests confidential treatment of the attached proprietary information pursuant to §§ 0.457 and 0.459 of the Commission's rules and the Protective Order, ¶

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4. Pursuant to the Protective Order, Verizon has marked each page of both the confidential, non-redacted version and the public, redacted version of this filing with the appropriate legend.

Finally, Verizon makes this submission in full compliance with the specific delivery and copy procedures explained by the Commission in its Protective Order, ¶¶ 4, 5 and 13.

Should you have any questions, please contact me.

Sincerely,

/s/ Alan Buzacott
Alan Buzacott

cc: (all by hand delivery; served previously)
Rebekah Goodheart
Brad Gillen
Al Lewis
Marcus Maher
Rohit Dixit
Kevin King
Raffi Melanson
Lynne Engledow

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EXHIBIT A

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[BEGIN CONFIDENTIAL]

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